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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 ROXANNE JONES,

10 Plaintiff,

11 v.

12 STATE OF WASHINGTON,  
13 DEPARTMENT OF CORRECTIONS,

14 Defendant.

CASE NO. C11-5661BHS

ORDER DENYING  
PLAINTIFF'S APPLICATION  
TO PROCEED IN FORMA  
PAUPERIS AND DISMISSING  
ACTION

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16 This matter comes before the Court on Plaintiff Roxanne Jones's ("Jones")  
17 Application to Proceed In Forma Pauperis (Dkt. 1). The Court has considered the  
18 pleadings filed in support of the motion and the remainder of the file and hereby denies  
19 the motion and dismisses this action for the reasons stated herein.

20 Jones asserts that Defendants Mary Selecky and the State of Washington  
21 Department of Health Medical Disciplinary Board ("Board") have violated her rights  
22 under the Fourteenth Amendment of the United States Constitution. Dkt. 1-1 at 3. Jones  
23 claims that she suffered injuries from a "fraud surgery" and that she reported the doctors  
24 to the Board. *Id.* at 2. She alleges that the Board failed to properly investigate the matter  
25 and failed to properly discipline the doctors. *Id.* Jones seeks one million dollars in  
26 damages for each year that she has suffered from her injuries. *Id.* at 4.

1 The district court may permit indigent litigants to proceed in forma pauperis upon  
2 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the  
3 “privilege of pleading in forma pauperis . . . in civil actions for damages should be  
4 allowed only in exceptional circumstances.” *Wilborn v. Escalderon*, 789 F.2d 1328 (9th  
5 Cir. 1986). Moreover, the court has broad discretion in denying an application to proceed  
6 in forma pauperis. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied* 375 U.S.  
7 845 (1963).


8 In this case, Jones has failed to show that she should be entitled to proceed in  
9 forma pauperis. While she seeks both damages and what appears to be injunctive relief,  
10 she has failed to articulate any claim that may be reviewed by this Court. Jones is  
11 attempting to sue an agency of the State of Washington for violations of the Fourteenth  
12 Amendment to the United States Constitution. A claim asserting violations of the  
13 Fourteenth Amendment may be brought under 42 U.S.C. § 1983. However, the Eleventh  
14 Amendment to the United States Constitution bars citizens from bringing suit against a  
15 state, or its agencies, in federal court. *Pennhurst State School & Hosp. v. Halderman*,  
16 465 U.S. 89, 100 (1984). There are two exceptions to a state’s Eleventh Amendment  
17 immunity: (1) a state may consent to suit against it in federal court (*see Hans v.*  
18 *Louisiana*, 134 U.S. 1 (1890)); or (2) Congress, in certain situations, may abrogate a  
19 state’s Eleventh Amendment immunity (*see Pennhurst*, 465 U.S. at 99). The State of  
20 Washington has not waived its Eleventh Amendment immunity. *Skokomish Indian Tribe*  
21 *v. France*, 269 F.2d 555, 560-61 (9th Cir. 1959). In addition, the United States Supreme  
22 Court has specifically held that Congress did not abrogate states’ Eleventh Amendment  
23 immunity from suit in enacting § 1983. *Quern v. Jordan*, 440 U.S. 332, 345 (1979).

24 Therefore, the Court concludes that, at this time, Jones has failed to show that she  
25 should be entitled to proceed in forma pauperis based on the proposed complaint. In  
26 addition, because Jones’s claims are barred by the Eleventh Amendment, the Court  
27 concludes that this action should be dismissed for failure to state a claim upon which  
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1 relief can be granted. *See* Fed. R. Civ. P. 12(b)(6); *see also Omar v. Sea-Land Serv., Inc.*,  
2 813 F.2d 986, 991 (9th Cir. 1987) (“A trial court may dismiss a claim sua sponte under  
3 Fed. R. Civ. P. 12(b)(6) . . . . Such a dismissal may be made without notice where the  
4 claimant cannot possibly win relief.”).

5 Therefore, it is hereby **ORDERED** that Jones’s Application to Proceed In Forma  
6 Pauperis (Dkt. 1) is **DENIED** and this action is **DISMISSED**.

7 DATED this 25th day of August, 2011.

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10 BENJAMIN H. SETTLE  
United States District Judge  
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